



## ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

### Identifying and Reducing Burdens in Administrative Processes; Request for Comments

**AGENCY:** Administrative Conference of the United States (ACUS).

**ACTION:** Notice; request for comments.

**SUMMARY:** The Office of the Chairman of ACUS is requesting public input on how agencies can identify and reduce unnecessary procedural burdens that members of the public face when they engage with administrative programs or participate in administrative processes. Responses to this request may inform an ongoing ACUS project, *Identifying and Reducing Burdens in Administrative Processes*, which, if warranted, will recommend best practices for agencies to use.

**DATES:** Comments must be received no later than 10 a.m. (ET) [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may submit comments by email to [info@acus.gov](mailto:info@acus.gov) (with “Identifying and Reducing Burdens in Administrative Processes” in the subject line of the message), online by clicking “Submit a comment” near the bottom of the project web page found at <https://www.acus.gov/research-projects/disclosure-agency-legal-materials>, or by U.S. Mail addressed to Identifying and Reducing Burdens in Administrative Processes, Administrative Conference of the United States, 1120 20th Street NW, Suite 706 South, Washington, DC 20036. ACUS will ordinarily post comments on the project web page as they are received. Commenters should not include information, such as personal information or confidential business information, that they do not wish to appear on the ACUS website. For the full ACUS public comment policy, please visit <https://www.acus.gov/policy/public-comment-policy>.

**FOR FURTHER INFORMATION CONTACT:** Matthew Gluth, Attorney Advisor, Administrative Conference of the United States, 1120 20th Street NW, Suite 706 South, Washington, DC 20036; Telephone (202) 480-2080; email [mgluth@acus.gov](mailto:mgluth@acus.gov).

## **SUPPLEMENTARY INFORMATION:**

The Administrative Conference Act, 5 U.S.C. 591-596, established the Administrative Conference of the United States. The Conference studies the efficiency, adequacy, and fairness of the administrative procedures used by Federal agencies and makes recommendations to agencies, the President, Congress, and the Judicial Conference of the United States for procedural improvements (5 U.S.C. 594(1)). For further information about the Conference and its activities, see [www.acus.gov](http://www.acus.gov).

### **Identifying and Reducing Burdens in Administrative Processes**

Congress and the White House have, over the past three decades, directed agencies to design and manage public-facing processes to account for the needs of public participants. Statutes, executive orders, and Office of Management and Budget guidance identify methods for identifying unnecessary administrative burdens (e.g., use of surveys, focus groups, user testing, data analysis) and strategies for reducing them (e.g., streamlining processes, simplifying forms, digitizing services, improving public communications). This focus on identifying and reducing administrative burdens is often called “customer service” or “customer experience” because it borrows from similar practices used by private-sector organizations.<sup>1</sup>

Agencies are increasingly using customer service methods to identify and reduce unnecessary burdens that members of the public face when they engage with administrative programs or participate in administrative processes. A growing academic literature also analyzes how public institutions can use customer service methods to improve the programs they

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<sup>1</sup> 21st Century Integrated Digital Experience Act, Pub. L. No. 115-336 (2018); Exec. Order No 14058, *Transforming Federal Customer Experience and Service Delivery To Rebuild Trust in Government*, 86 FR 71357 (Dec. 16, 2021); Exec. Order No. 13985, *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*, 86 FR 7009 (Jan. 25, 2021); Exec. Order No. 13707, *Using Behavioral Science Insights To Better Serve the American People*, 80 FR 56365 (Sept. 18, 2015); Exec. Order. No. 13571, *Streamlining Service Delivery and Improving Customer Service*, 76 FR 24339 (Apr. 27, 2011); Exec. Order No. 12862, *Setting Customer Service Standards*, 58 FR 48257 (Sept. 14, 1993); Off. of Mgmt. & Budget, *Improving Access to Public Benefits Through the Paperwork Reduction Act*, M-22-10 (Apr. 13, 2022); see also OFF. OF MGMT. & BUDGET, *STUDY TO IDENTIFY METHODS TO ASSESS EQUITY: REPORT TO THE PRESIDENT* (2021).

administer, and participants at two recent ACUS forums also discussed promising practices for identifying and reducing administrative burdens.<sup>2</sup>

ACUS has adopted many recommendations urging agencies to use specific customer service methods in certain circumstances. It has recommended, for example, that agencies seek public input on practices for engaging with the public during rulemakings;<sup>3</sup> design and manage Regulations.gov to “meet user needs;”<sup>4</sup> solicit public feedback on appellate systems, hearing practices, and guidance websites;<sup>5</sup> collect anonymous feedback to assess participants’ satisfaction with virtual hearings;<sup>6</sup> gather data on the experiences of self-represented parties and users of electronic case management systems;<sup>7</sup> and use quality assurance to identify systemic barriers to participation in adjudicatory proceedings.<sup>8</sup>

ACUS is undertaking this project to examine more comprehensively how agencies are using and might better use customer service methods to improve administrative programs and procedures. A team of leading scholars will submit a report to ACUS that will examine methods, such as public engagement and data analysis, that agencies can use to identify unnecessary burdens that members of the public face when they engage with administrative programs or participate in administrative processes. The project will also assess strategies for reducing unnecessary burdens, such as streamlining processes and digitizing services. Based on this

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<sup>2</sup> Admin. Conf. of the U.S., Forum on Enhancing Public Input in Agency Rulemaking (Dec. 1, 2021); Admin. Conf. of the U.S., Forum on Underserved Communities and the Regulatory Process (Nov. 3–29, 2021).

<sup>3</sup> Admin. Conf. of the U.S., Recommendation 2020-1, *Rules on Rulemakings*, ¶ 5, 86 FR 6613, 6613 (Jan. 22, 2021); Admin. Conf. of the U.S., Recommendation 2018-7, *Public Engagement in Rulemaking*, ¶ 4, 84 FR 2146, 2148 (Feb. 6, 2019).

<sup>4</sup> Admin. Conf. of the U.S., Recommendation 2018-6, *Improving Access to Regulations.gov’s Rulemaking Dockets*, ¶ 1, 84 FR 2143, 2145 (Feb. 6, 2019).

<sup>5</sup> Admin. Conf. of the U.S., Recommendation 2020-3, *Agency Appellate Systems*, ¶ 25, 86 FR 6618, 6620 (Jan. 22, 2021); Admin. Conf. of the U.S., Recommendation 2016-4, *Evidentiary Hearings Not Required by the Administrative Procedure Act*, ¶ 31, 81 FR 94314, 94316 (Dec. 23, 2016); Admin. Conf. of the U.S. Recommendation 2019-3, *Public Availability of Agency Guidance Documents*, ¶ 6, 84 FR 38931, 38932 (Aug. 8, 2019).

<sup>6</sup> Admin. Conf. of the U.S., Recommendation 2021-4, *Virtual Hearings in Agency Adjudication*, ¶ 14, 86 FR 36083, 36085 (July 8, 2021); see also Admin. Conf. of the U.S., Recommendation 2014-7, *Best Practices for Using Video Teleconferencing for Hearings*, ¶ 12, 79 FR 75114, 75120 (Dec. 17, 2014).

<sup>7</sup> Admin. Conf. of the U.S., Recommendation 2016-6, *Self-Represented Parties in Administrative Proceedings*, ¶ 4, 81 FR 94319, 94320 (Dec. 23, 2016); Admin. Conf. of the U.S. Recommendation 2018-3, *Electronic Case Management in Federal Administrative Adjudication*, ¶ 4f, 83 FR 30686, 30687 (June 29, 2018).

<sup>8</sup> Admin. Conf. of the U.S., Recommendation 2021-10, *Quality Assurance Systems in Agency Adjudication*, 87 FR 1722 (Jan. 12, 2022).

research, a committee of ACUS members will develop proposed recommendations to agencies of best practices for possible consideration by the ACUS Assembly. Visit <https://www.acus.gov/research-projects> to learn more about how ACUS develops recommendations.

### **Specific Topics for Public Comment**

ACUS welcomes views, information, and data on all aspects of strategies that agencies are using or might use to identify and reduce unnecessary burdens that members of the public face when they engage with administrative programs or participate in administrative processes. ACUS also seeks specific feedback on the following questions related to agencies' burden-reduction efforts:

1. What has been your experience interacting with an agency regarding a benefit or service that you are applying for or renewing, for example unemployment insurance or student loan assistance? Was any portion of the process especially easy or particularly difficult? Do you have specific suggestions for reducing burdens?
2. What has been your experience trying to use a government benefit or service that you are receiving? For example, how easy or difficult is it to use your food stamps, Medicaid health insurance, or Medicare health insurance? Do you have specific suggestions for reducing burdens in programs with which you have interacted?
3. Have you experienced any unintended consequences from agencies' burden-reduction efforts? For example, have an agency's attempts to reduce one burden created others, either for members of the public or for agency officials?
4. Are you aware of specific, temporary burden reductions instituted during the COVID-19 pandemic that you believe should be made permanent? This can include (and please specify, if possible) burden-reduction efforts that agencies can implement under current statutes as well as those that would require statutory changes.

5. Are there existing legal impediments that have slowed or stopped efforts to identify or reduce burdens? If so, please describe examples, especially those that you believe would have the greatest burden-reduction impact.
6. What has been your experience regarding collaborations between agencies and other public- and private-sector organizations when trying to reduce burdens. Please describe whether these collaborations were successful and describe any factors (e.g., statutory, organizational, other) that either enhanced or impeded the collaboration.
7. What role can private-sector groups play in helping to reduce burdens, and how can government agencies encourage such actions? For example, how might regulations on access and sharing of personal financial data be structured to encourage private-sector groups to provide tools to reduce burdens that members of the public experience when they apply for, engage with, or participate in federal programs?

Dated: February 9, 2023.

**Shawne McGibbon,**

*General Counsel.*